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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN F. BISCEGLIA

Appeal 2007-3447
Application 10/015,855
Technology Center 2100

Decided: May 7, 2008

Before HOWARD B. BLANKENSHIP, ST. JOHN COURTENAY III, and
STEPHEN C. SIU, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

I. STATEMENT OF THE CASE

Appellant appealed under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1-47 as being anticipated by U.S. Patent No. 6,405,364 ("Bowman-Amuah"). We affirmed. Pursuant to 37 C.F.R. § 41.52(a)(1), Appellant now requests a rehearing of the Decision on Appeal

entered on December 17, 2007 to reconsider our affirmance. We have jurisdiction under 35 U.S.C. § 6(b).

II. CLAIMS 1, 15, 26, AND 37

The Examiner cites specific portions of Bowman-Amuah and asserts “col. 21, line 65 (of Bowman-Amuah), regarding project documentation, ‘Clearly assign ownership for the contents of each folder’, col. 49, lines 6-10, ‘Workflow Management tools address this . . . providing the ability to define, manage, and execute automated business processes through an electronic representation of the process both in terms of what has to be done, and by whom (assignments to one or more developers).’” (Ans. 22).

Appellant asserts that “[t]he burden is on the Examiner and not on Appellant to first construe the claims and then provide evidence as to how the cited passages in the cited art disclose the claim limitations. The Examiner never did that.” (Req. for Recons. 8). Appellant further asserts that “the Board’s opinion did not construe the scope of ‘assigning the first request to one or more developers’ as recited in claim 1” (*id.* 9). As set forth above, we disagree that “the Examiner never did that (provided evidence as to how the cited passages in the cite art disclose the claim limitations)” because the Examiner cites specific portions of the cited reference and explains the correlation between the cited portions of the cited reference with each feature recited in claim 1.

To summarize, the Examiner finds that Bowman discloses folders that store content including project information and assigning the ownership of the folder contents to individuals responsible for implementing and/or creating the project (col. 21, l. 65). Using “workflow management tools,” the system of Bowman-Amuah assigns tasks and folder contents/project information “in terms of what has to be done, and by whom” (Ans. 22). The Examiner equates Bowman-Amuah’s assigning specific folder contents that includes project information to individuals responsible for “what has to be done” with “assigning said first request to one or more developers” recited in claim 1.

Appellant further argues that “there is no language that discloses assigning a first request to one or more developers (as recited in claim 1).” (Req. for Recons. 8.) Appellant therefore argues patentability of claim 1 because the identical claim terms are not found in Bowman-Amuah. As we pointed out, this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990). Therefore, even assuming that identical language is not disclosed in Bowman-Amuah as Appellant asserts, we are unconvinced by Appellant’s argument.

Appellant disputes the finding that “control information” and “first request” of claim 1 constitute non-functional descriptive material because “[t]he first request is reviewed in accordance with the control information for managing the first request” and “[t]he control information is used to

determine how to handle the request. See page 15, lines 10-16 of Appellant’s Specification” (Req. for Recons. 5).

As explained previously, the descriptive material (i.e., “control information” and “request” comprising a description of a development environment) recited in claim 1 is non-functional descriptive material because each of the “control information” and “request” does not functionally affect the process of managing a development environment. Rather, the control information is merely information that is used for “managing said first request” by a computer program and the request is data that is received (“receiving a first request”) and processed (“processing said first request”) by the system. In each case, the data (i.e., “control information” and “request”) do not affect how the method of the prior art is performed on a computer system. In other words, the method of receiving and processing the request and reviewing the request “in accordance with control information” is carried out in the same way regardless of the nature of the request or control information.

In *In re Ngai*, the court held that printed matter in a kit “in no way depends on the kit, and the kit does not depend on the printed matter. All that the printed matter does is teach a new use for an existing product” *In re Ngai*, 367 F.3d 1336, 1339 (Fed. Cir. 2004) and held that the instructions in the kit constituted non-functional descriptive material. The present case is directly comparable because the system manages the development environment the same way regardless of whether a “first request/control

information” is received/processed or any other “request/control information” is received/processed. In other words, the specific request/control information and the system/computer do not depend on one another to perform their functions.

In *In re Curry*, the Board held that in a computer-implemented method of providing “wellness-related services,” “the ‘wellness-related data in the databases . . . does not functionally change either the data storage system or communication system used in the method of claim 81. Nonfunctional descriptive material cannot render nonobvious an invention that would have otherwise been obvious.” See *Ex parte Curry*, 84 USPQ2d 1272 (BPAI 2005), *aff’d* (Fed. Cir. Appeal No. 2006-1003, *aff’d* Rule 36 June 12, 2006).

In *In re Mathias*, the Board held that an icon for viewing the score of a broadcast sporting event constituted nonfunctional descriptive material because such information “cannot lend patentability to an invention that would have otherwise been anticipated by the prior art.” *Ex parte Mathias*, 84 USPQ 2d 1276, 1278-79 (BPAI 2005), *aff’d* 191 Fed. Appx. 959 (Fed. Cir. 2006).

In *In re Nehls*, SEQ ID NOs were held not to be “functionally related to the computer system carrying out the comparison because the computer compares a target sequence to a database the same way regardless of whether the database includes any of SEQ ID NOs 9-1008: the SEQ ID NOs and the computer do not depend on each other for their function.”

Because “the nature of the information being manipulated does not lend patentability to an otherwise unpatentable computer-implemented product or process”, the Board found that the SEQ ID NOs in Nehls constituted non-functional descriptive material. *In re Nehls*, Appeal 2007-1823 (BPAI 2008), <http://www.uspto.gov/web/offices/dcom/bpai/prec/fd071823.pdf>.

Because Appellant fails to demonstrate Examiner error, we maintain our affirmance of the rejection of claim 1 and of claims 15, 26, and 37, which fall therewith.

III. CLAIMS 2, 16, 27, AND 38

The Examiner finds that:

it is inherent that the developer is notified, in order to correct the violated condition. Col. 21, lines 15-21, ‘Certain reports should be run daily, such as the list of new data elements or modified data elements. These reports can serve as an audit trail of changes and can be used to communicate changes to the entire team (communicate changes to developers, needed to correct violations).’ Col. 21, lines 26-28, ‘When supporting specific kinds of repository analysis, the Repository Management team can provide custom reports or ad hoc queries that satisfy particular needs.’ Also see col. 35, lines 30-55, ‘... the management of design problems detected during verification or validation steps . . . Problem tracking improves communication between developers and business representatives . . . By circulating problem documentation to all

affected parties (notifying a developer of said violated condition), management can minimize the risk of misunderstandings

(Ans. 27-28).

Thus, the Examiner finds that Bowman-Amuah discloses “standards” that “form the basis for a repository validation program which can . . . report on detected deviations from standards” (col. 21, ll. 2-6), equates the “standards” of Bowman-Amuah with the “condition” recited in claim 2, equates “deviations from standards” of Bowman-Amuah with “violated condition” recited in claim 2, and finds that such violated conditions (or “deviations from standards”) are reported on “certain reports” that “should be run daily.” These reports are further used to “communicate changes to the entire team.” The Examiner finds that “the entire team” includes developers. We agree with the Examiner’s construction of claim terms. Appellant inquires: “Why can the Examiner ignore claim limitations, namely, ‘notifying a developer?’” (Req. for Recons. 9). We disagree with Appellant’s implication that the Examiner has ignored claim terms in view of the Examiner’s explicit references to the claim limitation “notifying a developer.”

Appellant argues that “there is no language in Bowman-Amuah that discloses notifying a developer of a violated condition” (Req. for Recons. 9). As set forth above, this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d at 832 (Fed. Cir. 1990).

Therefore, even assuming Bowman-Amuah fails to disclose the identical terminology of claim 2 as asserted by Appellant, we find Appellant's argument unconvincing because exact terminology is not required. With the exception of Bowman-Amuah allegedly lacking identical terminology (which is immaterial), Appellant fails to allege much less demonstrate any specific differences between Bowman-Amuah and claim 2 and has therefore fails to establish Examiner error.

Therefore, we maintain our affirmance of the rejection of claim 2 and of claims 16, 27, and 38, which fall therewith.

IV. CLAIMS 3, 17, 28, AND 39

Appellant states that Bowman-Amuah discloses a Repository Management team performing certain analyses repeatedly and providing "custom reports or ad hoc queries that satisfy particular needs" (col. 21, ll. 27-29), but asserts that the cited passages of Bowman-Amuah "do not disclose inserting information of a violation of a condition in a report" (Req. for Recons. 10). Appellant further inquires: "Where is this limitation disclosed?" (*Id.*)

In response to Appellant's inquiry, "Where is this limitation (inserting information of a violation of a condition in a report) disclosed?" (Req. for Recons. 10), we note that the Examiner states:

Bowman disclosed, col. 21, lines 22-30, "The Repository Management team performs certain analyses repeatedly. Standard analyses such as impact analyses should be specified

in detail . . . When supporting specific kinds of repository analysis, the Repository Management team can provide custom reports (inserting information of said violation of condition) or ad hoc queries that satisfy particular needs.” Bowman disclosed, col. 35, lines 45-47, ‘Problem tracking improves communication between developers and business representatives (customer).” Col. 45, lines 57-9, “E-mail is a convenient tool for distributing information (issuing report) to a group of people”

(Ans. 28).

Hence, the Examiner finds that Bowman-Amuah detects “deviations from standards” (col. 21, ll. 3-4), creating “validation reports” (col. 21, l. 8) that “show the occurrence of many standards violations” (col. 21, ll. 8-9), providing “custom reports” (col. 21, ll. 27) that includes the “modified data elements” (col. 21, l. 17), running reports daily and specifying “what their distribution should be” (col. 21, ll. 20-21). The Examiner further equates “deviations from standards” of Bowman-Amuah with a “violation of a condition” of claim 3, the “validation reports” of Bowman-Amuah with the “report” of claim 3, and “distributing” the report of Bowman-Amuah with “issuing” the report to a customer of claim 3. We agree with the Examiner’s construction of claim terms. We also agree that because the “validation report” of Bowman-Amuah shows “many standards violations” (col. 21, ll. 3-4), the “many standards violations” must have been “inserted” into the “validation report” as demonstrated by the fact that the “validation report” contains the “standards violations.”

Appellant reproduces language from claim 3 and language from cited passages of Bowman-Amuah (Reply Br. 9) and asserts that “[t]here is no language in the cited passages that discloses inserting information of a violation of a condition in a report. Neither is there any language in the cited passages that discloses issuing the report to a customer” (*id.*). As stated above, this is not an *ipsissimis verbis* test. Therefore, even assuming identical terminology is not present in Bowman-Amuah, Appellant has nevertheless failed to establish Examiner error.

Therefore, we maintain our affirmance of the rejection of claim 3 and of claims 17, 28, and 39, which fall therewith.

V. CLAIMS 4, 18, 29, AND 40

Appellant inquires: “how is ‘inserting information on a status of the development environment in a report; and issuing the report to a customer,’ as recited in claims 4, 18, 29 and 40, related to music, literary works, a mere arrangement of data, or an abstract idea?” (Req. for Recons. 3).

The simple answer to Appellant’s question: in the context of representative claim 4, “information on a status of said development environment” constitutes a mere arrangement of data. The actual requirements of claim 4 are: (1) inserting information (i.e., data) in a report; and (2) issuing the report to a customer. The *content* of the inserted data does not modify or affect the steps of the process.

Also, as explained previously, we find that “information on the status of the . . . environment” constitutes non-functional descriptive material. Similar to the “control information” and “request” of claim 1, there is no evidence that the “status” information of claim 4 functionally affects the process of inserting the status information in a report. In claim 4, “status” information is inserted into a report the same way regardless of the status information being inserted such that the status information and the system do not depend on each other for their function.

Therefore, we maintain our affirmance of the rejection of claim 4 and of claims 18, 29 and 40, which fall therewith.

VI. CLAIMS 5, 6, 19, 20, 30, 31, 41 AND 42

Appellant inquires: “[h]ow is ‘wherein said control information comprises one or more of the following: a statement of work, a profile of a server implemented in said development environment, a profile of a network component implemented in said development environment, and a profile of said development environment,’ as recited in claims 5, 19, 30 and 41, related to music, literary works, a mere arrangement of data, or an abstract idea?” (Req. for Recons. 3). Appellant also inquires: “[h]ow is ‘wherein said statement of work comprises standards for hardware components and software components in said target environment, wherein said statement of

work comprises contract conditions,’ as recited in claims 6, 20, 31 and 42, related to music, literary works, a mere arrangement of data, or an abstract idea?” (Req. for Recons. 3).

As explained previously, we find that “control information” constitutes non-functional descriptive material. Each of the types of “control information” is not functionally related to the system carrying out the process of reviewing and processing a request because the system reviews and processes a request regardless of whether control information includes any of a “statement of work”, a “profile of a server,” a “profile of a network component,” a “profile of a development environment,” or other type of “control information.” In other words, there is no evidence that the “control” information of claim 5 functionally affects the process of managing a development environment because the control information and the system do not depend on each other for their function.

Therefore, we maintain our affirmance of the rejection of claim 5, and 6 and of claims 19, 20, 30, 31, 41, and 42, which fall therewith.

VII. CLAIMS 7, 21, 32, AND 43

The Examiner finds that Bowman-Amuah:

Col. 19, line 14-col. 22, line 28 discloses Repository Management tasks (server implemented in development environment). Included are activities such as (col. 19, lines 15-28) “monitoring and controlling update activities . . . receiving and validating data element change request . . . creating and modifying data elements . . . enforcing project standards . . .

validating the contents . . . ensuring accuracy . . . importing and exporting . . . maintenance of the information model . . . (description of server implemented in development environment”)

(Ans. 30-31).

Appellant asserts that “[t]here is no language in the cited passage that discloses a server profile.” (App. Br. 15.) As stated above, this is not an *ipsissimis verbis* test. Therefore, the alleged lack of exact terminology in Bowman-Amuah is immaterial. Appellant further inquires: “What is the rationale for concluding that the teaching of activities of a repository management necessarily entails the teaching of a server profile that includes a description of the server implemented in the development environment? . . . where is this limitation disclosed?” (Req. for Recons. 10).

To summarize the Examiner’s findings, Bowman-Amuah discloses “Repository Management” information as “information generated within the development environment, which needs to be carefully managed” (col. 18, ll. 65-67). The Examiner equates this information with the “profile” of claim 7 and finds that this information includes information describing “monitoring and controlling update activities . . . receiving and validating data element change request . . . creating and modifying data elements . . . enforcing project standards . . .” (Ans. 31). Because a server includes any “provider of data” (col. 1, l. 61) and the information (i.e., Repository Management information) includes information that describes activities of

the system that provides data, we agree with the Examiner that the “profile” includes a description of the system that “provides data” (i.e., a “server”). We find that the Examiner has provided a convincing rationale for the rejection of the claim in the Examiner’s Answer as indicated above whereas Appellant failed to demonstrate Examiner error.

Appellant also inquires: “[h]ow is ‘wherein said server profile comprises a description of said server implemented in said development environment,’ as recited in claims 7, 21, 32 and 43, related to music, literary works, a mere arrangement of data, or an abstract idea?” (Req. for Recons. 3). We find that “control information” constitutes non-functional descriptive material for reasons previously set forth. Claim 7 recites a form of “control information.”

Therefore, we maintain our affirmance of the rejection of claim 7 and of claims 21, 32 and 43, which fall therewith.

VIII. CLAIMS 8, 22, 33, AND 44

The Examiner states:

See FIG. 1, #135 Network and FIG. 4, #402 / Network Support . . . (Bowman) discloses (col. 2, lines 17-21) “A system, method and article of manufacture are provided for building system in a development architecture framework. Requirements are specified for both a system to be built and an implementation strategy to fulfill the requirements (serves & network used in environment). The System is built according to the implementation strategy.” The network component is part of the Environment Management Team (col. 14, line 40)

responsibility. Col. 16, line 24, “The core activity-systems building, depends strongly on support from the surrounding management processes . . .

(Ans. 31).

Appellant asserts that “[t]here is no language in the cited passages that discloses a network component profile” (App. Br. 16). As stated above, this is not an *ipsissimis verbis* test. Therefore, the alleged lack of exact terminology in Bowman-Amuah is immaterial. Appellant further inquires: “where is this limitation disclosed?” (Req. for Recons. 11).

To summarize the Examiner’s findings, the Examiner demonstrates that the system of Bowman-Amuah includes a “network” (FIG. 1; FIG. 4; col. 14, line 40). We also find that a network must include components of the network (or “network components”). The Examiner also demonstrates that Bowman-Amuah discloses specified requirements of a system to be built according to a specified implementation strategy and equates such specified requirement information to “a description of said network component implemented in said development environment” of claim 8. Because the information of Bowman-Amuah includes information describing the “requirements of the system to be built” and the system to be built includes “network components” as described above, we agree with the Examiner that the information describing the “requirements of the system to be built” includes information describing the network components of the system (as part of the system to be built). We also agree with the Examiner

that such information constitutes the “network component profile” that describes the “network component implemented in said development environment” as recited in claim 8 for reasons set forth above.

Therefore, we find that the Examiner indicated the location of the disclosure in Bowman-Amuah and provided arguments supporting the contention that Bowman-Amuah discloses claim features. Appellant failed to provide a rationale supporting that the Examiner erred.

Appellant also inquires: “[h]ow is ‘wherein said network component profile comprises a description of said network component implemented in said development environment,’ as recited in claims 8, 22, 33 and 44, related to music, literary works, a mere arrangement of data, or an abstract idea?” (Req. for Recons. 3-4).

We find that the recited “control information” constitutes non-functional descriptive material for reasons previously set forth. Claim 8 recites a form of “control information.”

Therefore, we maintain our affirmance of the rejection of claim 8 and of claims 22, 33, and 44, which fall therewith.

IX. CLAIMS 9, 23, 34, AND 45

The Examiner states:

Bowman: See FIG. 1 regarding the hardware components of the development environment. Col. 72, lines 5-26, “System building tools comprise the core of the development architecture and are used to design, build, and test the system . .

. Analysis tools are used to specify the requirements for the system being developed (software application to be developed). Design tools are used to specify ‘how’ a system will implement these system requirements. The standard client/server model comprises application logic, presentation, and communication components, which together support the business process. For a client/server system software application to be developed), each of these components must be individually defined.” (Emphasis added.)

(Ans. 32).

Appellant asserts that “neither is there any language in the cited passage that discloses a profile of the development environment that comprises a description of the software application to be developed” (Req. for Recons. 12). As stated above, this is not an *ipsissimis verbis* test. Therefore, the alleged lack of exact terminology in Bowman-Amuah is immaterial.

Appellant generally inquires: “[w]hat is the rationale for concluding that . . . a client/server system (of Bowman-Amuah) . . . entails . . . a profile of a development environment” (Req. for Recons. 12). To re-iterate the Examiner’s findings, the Examiner demonstrates that Bowman-Amuah discloses “modeling and diagramming tools, which provide the ability to diagram system requirement and specify ‘what’ a system must do” (col. 72, ll. 12-15) and design tools that “are used to specify ‘how’ a system will implement these system requirements” (col. 72, ll. 16-17). The Examiner further finds that a standard “client/server model comprises application

logic, presentation, and communication components" (Ans. 32) and equates information utilized by the "tools" of Bowman-Amuah with the "profile" recited in claim 9 because the profile of claim 9, like the information utilized by the "tools" of Bowman-Amuah includes "a description of the software application to be developed" (which the Examiner equates with components in the client/server system of Bowman-Amuah). The Examiner thus equates components of the client/server system of Bowman-Amuah with the profile of the development environment of claim 9 under the rationale that both components perform the same function under the same conditions and contain the same information. Therefore, we find that, contrary to Appellant's implication, the Examiner provided the requested "rationale" (Ans. 31-32, reproduced above).

Appellant also inquires: "[h]ow is 'wherein said profile of said development environment comprises a description of said hardware components and said software components of said development environment, wherein said profile of said development environment comprises a description of said software application to be developed,' as recited in claims 9, 23, 34 and 45, related to music, literary works, a mere arrangement of data, or an abstract idea?" (Req. for Recons. 4).

We find that "control information" constitutes non-functional descriptive material for reasons previously set forth. Claim 9 recites a form of "control information."

Therefore, we maintain our affirmance of the rejection of claim 9 and of claims 23, 34, and 45, which fall therewith.

X. CLAIM 10

The Examiner states:

Bowman: FIG. 4 and col. 14, lines 40-58, ". . . development environment requires system operations daily, and developers require ongoing support (updating) in order to use the environment effectively (server) . . . To ensure that this area receives the necessary attention, an Environment Management team 400 should be assigned these tasks. FIG. 4 is an illustration showing the Environmental Management Team responsibilities." See tasks in FIG. 4 as related to an updated profile of a server implemented in a development environment. "Technical standards support (description of server implemented in development environment), design review, general technical support, operations architecture support, etc.

(Ans. 32-33).

As described above, Appellant fails to demonstrate Examiner error in the rejection of claim 7. Therefore, the Examiner demonstrates that Bowman-Amuah discloses a server profile (repository management information) that comprises a description of the server implemented in the development environment as recited in claim 7 and claim 10. The Examiner finds that Bowman-Amuah (FIG. 4) also discloses technical standards

support, design review, general technical support, etc. and equates these elements with evidence that a server profile is “updated” in Bowman-Amuah (Ans. 32-33).

In addition, Bowman-Amuah discloses that the “repository management” information (“server profile”) is updated by, for example, “moving repository objects” (col. 19, l. 34) or “merging the development and system test repositories” (col. 19, ll. 36-37) such that repository “objects could have changed” (col. 19, ll. 41-42). We find that any of moving, merging, or changing of the repository management information constitutes “updating” the information.

Appellant argues that Bowman-Amuah’s disclosure that change control “governs what software component is changed” (col. 28, ll. 39-40) is “not . . . directed to updating data” (Req. for Recons. 13) and inquires: “What is the rational connection between this statement and . . . ‘updating a profile’” (*id.*). We use the plain and ordinary meaning of the term “updating” to encompass “modifying to a more recent status.” Therefore, under a broad but reasonable interpretation, we agree with the Examiner that “changing” is synonymous with “updating.” Appellant fails to provide an alternate interpretation of the term “updating” that differs from that of “changing.” Nor does Appellant provide specific arguments differentiating Bowman-Amuah from claim 10.

Appellant also inquires: how is “wherein said processing said first request comprises updating a profile of a server implemented in said development environment, wherein said server profile comprises a description of said server implemented in said development environment’ as recited in claim 10 related to music, literary works, a mere arrangement of data, or an abstract idea?” (Req. for Recons. 4).

We find that “information” (e.g., a request, a profile of a server, or a description of the server, as recited in claim 10) constitutes non-functional descriptive material for reasons previously set forth.

Therefore, we maintain our affirmance of the rejection of claim 10.

XI. CLAIM 11

The Examiner states:

Bowman: FIG. 4 and col. 14, lines 40-58, “. . . development environment requires system operations daily, and developers require ongoing support (updating) in order to use the environment (network) effectively . . . To ensure that this area receives the necessary attention, an Environment Management team 400 should be assigned these tasks. FIG. 4 is an illustration showing the Environmental Management Team responsibilities.” See tasks in FIG. 4 as related to an updated profile of a server implemented in a development environment. “Technical standards support (description of network component implemented), design review, general technical support, operations architecture support, etc.

(Ans. 33).

As described above, Appellant fails to establish Examiner error in the rejection of claim 8. Therefore, the Examiner has demonstrated that Bowman-Amuah discloses a network component profile that comprises a description of the network component implemented in the development environment as recited in claim 8 and claim 11. The Examiner also finds that Bowman-Amuah (FIG. 4) also discloses technical standards support, design review, general technical support, etc. and equates these elements with evidence that the network component profile is “updated” in Bowman-Amuah (Ans. 32-33).

Appellant argues that Bowman-Amuah’s disclosure that change control “governs what software component is changed” (col. 28, ll. 39-40) is “not . . . directed to updating data” (Req. for Recons. 14) and inquires: “What is the rational connection between this statement and . . . updating a profile . . .” (*id.*). As set forth above, we agree with the Examiner that “changing” is synonymous with “updating.” Appellant fails to provide an alternate interpretation of the term “updating” that differs from that of “changing.” Nor does Appellant provide specific arguments differentiating Bowman-Amuah from claim 11.

Appellant also inquires: “[h]ow is ‘wherein said processing said first request comprises updating a profile of a network component implemented in said development environment, wherein said network component profile comprises a description of said network component implemented in said

development environment' as recited in claim 11 related to music, literary works, a mere arrangement of data, or an abstract idea?" (Req. for Recons. 4).

We find that "information" (e.g., information pertaining to a network component implemented in a development environment as recited in claim 11) constitutes non-functional descriptive material for reasons previously set forth.

Therefore, we maintain our affirmance of the rejection of claim 11.

XII. CLAIM 12

As described above, Appellant fails to establish Examiner error in the rejection of claim 12. Therefore, the Examiner has demonstrated that Bowman-Amuah discloses a profile of the development environment that includes a description of the hardware and software components and the profile including a description of the software application to be developed. Also, as set forth above, we agree with the Examiner that Bowman-Amuah discloses changing information which is equivalent to "updating" information including the profile. Appellants fail to demonstrate otherwise.

Appellant also inquires: how is "wherein said processing said first request comprises updating profile of said development environment, wherein said profile of said development environment comprises a description of said hardware components and said software components of said development environment, wherein said profile of said development

environment comprises a description of said software application to be developed' as recited in claim 12 related to music, literary works, a mere arrangement of data, or an abstract idea?" (Req. for Recons. 4).

We find that "information" (e.g., a request, profile information, or a description (of components)) recited in claim 12 constitutes non-functional descriptive material for reasons previously set forth.

Therefore, we maintain our affirmance of the rejection of claim 12.

XIII. CLAIMS 13, 14, 24, 25, 35, 36, 46 AND 47

Appellant argues that "[c]laims 13-14, 24-25, 35-36, and 46-47 are not non-functional descriptive material and therefore carries patentable weight" and that "Bowman-Amuah does not disclose all the limitations of claims 13-14, 24,-25, 35-36, and 46-47" (Req. for Recons. 16).

As set forth above, we find that the claims at issue recite non-functional descriptive material that does not receive patentable weight for reasons previously provided. Also, although Appellant argues that "Bowman-Amuah does not disclose all the limitations" of the claims at issue, Appellant nevertheless fails to provide a convincing rationale as to how the cited portions of Bowman-Amuah differ from the disputed claim limitations.

Appellant also inquires: "[h]ow is 'receiving a second request, wherein said second request comprises a request to implement a change in said development environment' as recited in claim 13, 24, 35 and 46 related

to music, literary works, a mere arrangement of data, or an abstract idea?” (Req. for Recons. 4) and “[h]ow is ‘receiving a second request, wherein said second request comprises a request to correct a problem detected in said development environment’ as recited in claims 14, 25, 36 and 47, related to music, literary works, a mere arrangement of data, or an abstract idea?” (Req. for Recons. 4-5).

We find that “information” (e.g., a request as recited in claims 13 and 14) constitutes non-functional descriptive material for reasons previously set forth.

In the absence of specific arguments by Appellant to demonstrate Examiner error, we maintain our affirmance of the rejection of claim 13 and of claims 24, 35, and 46, which fall therewith.

XIV. ORDER

In summary, we deny the Appellant’s request to reverse the rejection of claims 1-47 under § 102(e).

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No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

DENIED

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IBM CORP (WSM)
C/O WINSTEAD SECHREST & MINICK P.C.
PO BOX 50784
DALLAS, TX 75201